

## **USE AGREEMENT PERMIT**

(MOA-WEKA)

THIS USE AGREEMENT PERMIT, made and entered into as of the 27th day of September, 2021, by and between the Municipality of Anchorage (MOA), hereinafter "Permitter," whose address is P.O. Box 196650, Anchorage, AK, 99519-6650, and WEKA, LLC (WEKA), hereinafter "Permittee," whose address is 5630 B Street, AK 99518.

### **WITNESSETH:**

In consideration of the mutual covenants contained herein, the parties to the Use Agreement Permit agree as follows:

1. **Permission.** The MOA does hereby grant to the Permittee a non-exclusive, revocable Use Agreement Permit, hereinafter "Permit," containing the right, permission and authority to enter upon MOA property known as the former Golden Lion Hotel (Golden Lion), located at 1000 E. 36<sup>th</sup> Avenue., Anchorage, Alaska, (Permit Area) for the limited purpose(s) of:

#### COVID-19 Monoclonal Treatments

Permittee shall have non-exclusive access to the Permit Area. Permittee shall notify Permitter of its intent to use the Permit Area immediately prior to its commencement of above-mentioned activities. Permittee shall comply with any and all restrictions and conditions placed upon it under this Permit.

2. **Term.** This Permit shall be for Ninety (90) days, commencing on September 27<sup>th</sup>, 2021 and ending December 19<sup>th</sup>, 2021, provided that either party may terminate the Permit at any time, upon thirty (30) days written notice to the other party.

- A. At the end of the Permit term, or any extension thereof, Permittee shall remove all personal property from the Permit Area and restore the Permit Area as required under Paragraph 6.
- B. In the event Permitter terminates the Permit without cause, Permittee shall have thirty (30) days from the notice of termination to remove all personal property from the Permit Area and restore the Permit Area as required under Paragraph 6.
- C. Any continued use of the Permit Area by the Permittee after the expiration of the original term, without an approved extension or new permit, or after thirty (30) days from the notice of termination, shall be deemed a trespass subject to ejectment. All costs incurred to effect ejectment, including attorney fees, shall be borne by the Permittee.

3. **Fees.** As consideration for this Permit, Permittee shall pay Zero Dollars (\$0.00).

4. **Title to Property.** This Permit does not create for the Permittee any interest in or title to the above-described property.

5. **Alterations/Improvements.** Permittee shall not make any alterations, additions or improvements in or to the Permit Area without prior written approval from Permitter. Any signage must comply with the MOA's sign policies and standards and must receive prior approval from Permitter before being displayed or installed.

6. **Restoration of the Permit Area.** Upon completion of the limited purpose(s) described in Paragraph 1 above, or by the date of termination, whichever occurs first, all rights and obligations contained within this Permit shall terminate except for obligations imposed by this Permit on Permittee to repair, replace, or restore the Permit Area, structures or improvements thereon, and the indemnity imposed by Paragraphs 7, 8, and 9 below. Structures or improvements thereon, if any, currently existing within the Permit Area which are removed or damaged during the Permit period shall be replaced or repaired upon completion of the activities by Permittee, to the satisfaction of Permitter. Upon expiration, abandonment, or termination of this Permit, the Permittee shall remove from and off the Permit Area all property owned or controlled by the Permittee and restore the Permit Area to its prior condition in a manner satisfactory to Permitter. Upon failure to do so, Permitter may perform such work at Permittee's expense. Until said property is removed and the Permit Area restored, either by Permittee or Permitter, this Permit and all terms contained herein, including payment of fees, shall, at Permitter's option, remain in effect.

7. **Indemnification.** Permittee shall indemnify, defend, and hold the Permitter, its officers, employees, and agents harmless from all liability, claims, causes of action, and costs (including attorney's fees) arising directly out of Permittee's use and related conduct in the Permit Area or from the conduct of Permittee's business or from any activity, work or things done, permitted or suffered to be done by Permittee in or about the Permit Area.

8. **Insurance.** Permittee shall deliver to Permitter a certificate of liability insurance on or before the effective date of this Permit. Insurance shall cover the entire Permit Term. Permittee shall deliver to Permitter photocopies of the policy or policies of insurance, certificates of insurance or copies of endorsements upon request. The policy or policies purchased pursuant to this paragraph shall name the MOA and Permittee as co-insureds with respect to the Premises and the use or business operated by Permittee on the Premises.

- A. The Permittee shall maintain in good standing the insurance described in subsection B of this section. Before rendering any activities under the Permit, Permittee shall furnish the MOA with proof of insurance in accordance with subsection B in a form acceptable to the MOA.
- B. The Permittee shall provide the following insurance:
  - I. Workers' compensation and employer's liability coverage in the amount of \$500,000 as required by Alaska law. In addition, the Permittee is also responsible for complying with the laws of the state where Co-Permittees maintains its principal place of business.
  - II. Commercial general liability, including contractual liability and personal injury coverages - \$1,000,000 per occurrence, \$3,000,000 in the aggregate. Such limits may be satisfied by any combination of general liability and umbrella/excess liability policies, the MOA shall be named as additional insured on a primary and noncontributory basis.

- III. Commercial automobile liability per occurrence in the amount of \$100,000, single limit to include: owned, hired and non-owned.
- C. Policies written on a "claims made basis" must have a two (2) year tail of coverage from the completion of the Permit requirements.
- D. Each policy of insurance required by this section shall provide for no less than thirty (30) days advance notice to the Permittee.
- E. The MOA must be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies. The actual policy endorsement shall accompany each Certificate of Insurance.
- F. All policies except Professional Liability and Worker's Compensation shall contain a waiver of subrogation against the MOA, or against any person claiming by, through or under the MOA. This policy endorsement should accompany each Certificate of Insurance.

9 **Services and Utilities.** Permittee shall pay for snow removal and any services which Permittee obtains for the Permit Area including refuse, janitorial, internet/cable and phone lines. The Permittee shall be responsible for the services and utilities generally provided to the Premises, being electricity, heat and other air temperature control, sewer service, water service, and exterior lighting.

10. **Parking.** Parking is allowed on a non-exclusive basis in the onsite parking lot.

11. **Ingress and Egress of Persons.** Permittee and Permittee's employees, agents, customers, vendors, delivery persons and invitees shall have the right to use all means of common ingress and egress for persons to the Permit Area.

12. **Assignment.** This Permit may only be assigned or transferred with prior written consent of the Permittee, which shall not be unreasonably withheld.

13. **Maintenance and Repairs.**

A. Permittee shall and specifically agrees to furnish major maintenance to the Permit Area, the roof, the parking lots, and the electrical, mechanical, plumbing and heating systems of the building at no cost to the Permittee.

B. At all times during the term hereof, Permittee shall: (I) keep the Permit Area safe and orderly; (II) conduct activities upon and generally maintain the Permit Area in such a manner and with such care commensurate with their age and condition; (III) not use the Permit Area in such manner to increase the rate of fire and extended coverage insurance or to cause cancellation of the insurance or to make coverage unavailable; (IV) not use or permit any part of the Permit Area to be used for any unlawful or unauthorized purpose; (V) not use for or permit any part of the Permit Area to be used for any purpose which is substantially or materially different from its current use without prior written consent of the Permittee; (VI) comply with Municipal, State, Federal and other governmental laws, statutes, ordinances, rules and regulations of whatever type and nature including, but not limited to, zoning ordinances, health, fire, safety and environmental regulations; (VII) not cause or permit any waste, damage or injury to the Permit Area.

14. **Notices.**

- A. All notices required or permitted in this Permit shall be deemed to have been fully given or made or sent in writing and deposited in the United States mail, registered or certified mail. All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax or other electronic means of communications as follows:

To Permitter:  
The Municipality of Anchorage  
ATTN:  
P.O. Box 196650  
Anchorage, AK 99519-6650

To Permittee:  
WEKA, LLC  
ATTN:  
5630 B Street  
Anchorage, AK 99518

- B. The address for notice for either party may be changed by written notice given by that party to the other party as above provided.

15. **Default and Remedies.** Should Permittee violate any covenants of this Permit, the Permitter, at its option, may terminate and cancel this Permit after thirty (30) days written notice to Permittee, provided the default or other violation is not corrected during said period or Permittee is not actively engaged in correcting same.

16. **No Warranties.** Permittee accepts the Permit Area "as-is" at the commencement of the term of this Permit and its then present condition, subject to all applicable zoning, municipal, state and federal laws, ordinances and regulations governing and regulating the use of the Permit Area and accepts this Permit subject to such. Permittee acknowledges that neither the MOA nor MOA's agents have made any representations or warranties other than as expressly set forth in this Permit, and that this Permit does not include any representations or warranties with regard to the suitability of the Permit Area for the conduct of the Permittee's business.

17. **Counterparts and Signatures by Email.** This Permit may be executed in counterparts, each of which shall constitute an original, and all of which together shall be deemed a single document. Signatures on this Permit forwarded by email are intended to be the equivalent of original signatures, with the original executed Permit thereafter to be provided promptly to the other party.

18. **Miscellaneous.**

- A. The captions of paragraphs in this Permit are for convenience of reference only and shall not be used in the construction of any term hereof.
- B. This Permit represents the entire agreement of the parties with respect to the subject matter hereof, and it may not be modified except by an agreement in writing signed by both parties.
- C. Time is of the essence with respect to any obligations to be performed under this Permit.
- D. This agreement shall be interpreted under the laws of the State of Alaska. Venue is in the Third Judicial District at Anchorage.
- E. Any clause herein found to be void or otherwise unenforceable may be severed, with the remainder of the Permit fully enforceable.

**Permitter:**  
**Municipality of Anchorage**

*Amy Demboski*

By: \_\_\_\_\_  
Name:  
Title: Municipal Manager or Designee

09/27/2021

Date: \_\_\_\_\_

**Permittee:**  
**WEKA, LLC**

By: *Todd Herring*

Name: Todd Herring  
Title: CEO and Owner

Date: *September 27, 2021*